

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
Eastern Division

In re:)
WILLIAM D. KWIATEK) Chapter 7
Debtor.) Case No. 07-11753 MSH
)
)

JOINT MOTION TO CONTINUE HEARING SCHEDULED FOR MAY 24, 2016
(Expedited Determination Requested)

Harold B. Murphy, the duly appointed chapter 7 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of the above-captioned debtor (the “Debtor”), and Excalibur I, LLC and Excalibur II, LLC (collectively “Excalibur”)(the Trustee and Excalibur, the “Parties”), move for a continuance of the hearing currently scheduled for May 24, 2016, at 10:30 am (the “Hearing”) on the *Motion to Compel Compliance With Order Granting Motion by Chapter 7 Trustee for Authority to Conduct Rule 2004 Examination of Excalibur* (the “Motion to Compel”) filed by the Trustee, Excalibur’s opposition thereto, the *Motion of Excalibur I, LLC and Excalibur II, LLC For A Protective Order* (the “Protective Order Motion”) filed by Excalibur, and the Trustee’s response thereto, for a period of approximately four weeks, to June 21, 2016 or to such other date as may be convenient to the Court’s calendar. In support of the requested continuance, the Parties state as follows:

1. The Motion to Compel and the Protective Order Motion arise from a dispute between the Parties with respect to the Trustee’s request for documents from Excalibur, an entity in which the Debtor holds an interest.
2. On July 13, 2015, the Court entered the Stipulated Protective Order (the “Protective Order”), which was submitted by the Parties in order to address certain confidentiality concerns raised by Excalibur in the Protective Order Motion with respect to the Trustee’s document requests.

3. Following entry of the Protective Order, Excalibur has on several occasions produced documents to Verdolino & Lowey, P.C. ("V&L") the Trustee's accountants.

4. The Trustee, in consultation with V&L, has determined that each document production to date has been incomplete.

5. Following extensive discussions by the Parties, Excalibur agreed to provide the Trustee's accountant with access to the records maintained by Schreiber/Cohen, LLC, f/k/a The Schreiber Law Offices ("Schreiber"), which acted as a collection agent for Excalibur.

6. Due to the limited availability of the employee at Schreiber who was providing access to the Trustee seeks to review, the review by the Trustee's accountant commenced on October 6, 2015.

7. Following review by the Trustee's accountants of materials provided by Schreiber on October 6, 2015, the Trustee's accountant requested additional materials from Schreiber. Schreiber produced additional materials on October 15, 2015 and November 30, 2015. Excalibur produced additional information on November 5, 2015. The Trustee maintains that the documents produced to date are incomplete. Among other things, the Trustee has requested but not yet received collections remitted by Schreiber on a check by check basis.

8. On or about February 3, 2016 and February 4, 2016, the Trustee received certain additional information from Schreiber and Excalibur about the availability of the records the Trustee seeks.

9. At the time of receipt, the Trustee's representative at V&L with the most knowledge about the documents sought by the Trustee were unavailable to confer with the Trustee regarding the completeness of the information received by the Trustee.

10. The Trustee and his accountants are reviewing the information most recently received by Schreiber and Excalibur. The Trustee, Schreiber, and Excalibur are scheduled to meet

on June 2, 2016 to discuss the production of additional records and documents. Accordingly, the Trustee and Excalibur jointly request a four week continuance of the Hearing Date.

Expedited Determination Requested

11. Pursuant to MBLR 9013-1(g), the Parties request that the Court consider the relief requested herein on an emergency basis. The Trustee seeks to determine whether he can make further progress in obtaining the documents he requires to complete his investigation.

12. Because the hearing on the Motion to Compel and the Protective Order Motion is currently scheduled for Tuesday, May 24, 2016, the Parties request that the Court consider the relief requested on an expedited basis.

WHEREFORE, the Parties respectfully request that the Court continue the Hearing Date until June 21, 2016, or to such other date as may be convenient to the Court's calendar, and for such other relief as may be just and proper.

Respectfully submitted,

HAROLD B. MURPHY,
Chapter 7 Trustee,

By his counsel,

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EXCALIBUR I, LLC and
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By their counsel,

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* Executed pursuant to ECF Rule 8(b)(2).

Dated: May 23, 2016

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